IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13858 of 2004

Between:

Nidumolu Fisherman Co-operative Society Ltd, Reg.No. E-75, Nidumolu Village, Movva Mandalam, Krishna District, Rep. by its President, Mr. Eede Hanumantha Rao.

...PETITIONER

AND

1. The Gram Panchayat, Nidumolu Village, Movva Mandalam, Krishna District, Rep. by its President.
2. The Divisional Panchayat Officer, Department of Panchayat Raj, Krishna District, at Machilipatnam.
3. The District Panchayat Officer, Department of Panchayat Raj, Krishna District, at Machilipatnam.
4. The Collector, Krishna District at Machilipatnam.
5. The Deputy Director of Fisheries, Krishna District at Machilipatnam.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare that the in action of the Respondents in granting leasehold rights to the Petitioner Society under their representation dated 09.06.2004 over the Ten water tanks in their operational area of Nidumolu Gram Panchayat for the period from 1st July, 2004 to 30.06.2007 either way as arbitrary, unjust and illegal and violative of

the G.O.Ms.No.343, Panchayat Raj Department, dated 10.04.1978 and the Government orders issued from time to time apart from being violative of Articles 14, 19 (1) (g) of the Constitution of India and to grant such other relief or the reliefs as the Petitioner is found entitled to in Law by issuance of the Writ more particularly in the nature of Writ of Mandamus or any other appropriate writ or order or direction as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.CH.RAMESH BABU

Counsel for the Respondents: MR.SRINIVAS DAMMALAPATI

The Court made the following:

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ORDER:

The Writ Petition is filed by Nidumolu Fisherman Co-operative Society Ltd., (hereafter called 'the Society') seeking a direction to the respondents to give leasehold rights to the Society in respect of ten water tanks within the jurisdiction of the first respondent-Gram Panchayat as per the orders of the Government in G.O.Ms.No.343, Panchayat Raj Department, dated 10.04.1978. They also filed interlocutory application seeking direction to the respondents to permit the society to remove/take out the remaining fish, which is allegedly available in ten tanks. This Court while admitting the Writ Petition, ordered notice to the respondents and directed the learned Assistant Government Pleader for Panchayat Raj to file counter-affidavit. Today he filed counter-affidavit. Therefore, with the consent of the learned counsel for the petitioner, the matter was heard finally and being disposed of at the interlocutory stage.

It is the case of the petitioner-Society that it is registered under A.P.Co-operative Societies Act, 1964 and thereafter obtained leasehold rights from the first respondent-Gram Panchayat as per the Government orders in the above mentioned G.O. Even in the year commencing from 01.07.2003 to 30.06.2004, the lease was granted to them. However, before expiry of the period, the tanks were not offered to the petitioner-Society and therefore, they made a representation on 09.06.2004 in which they alleged that as the lease was not extended, the Gram Panchayat was not allowing the Society to remove fish which is still existing in the ten tanks, which was developed and cultured by the petitioner-Society.

In the counter-affidavit filed by the first respondent, the right of the petitioner to have a preferential claim to take the leasehold rights has not been denied. However, the allegation that the representation made is denied and further stated that no fish exists in ten tanks. It is also stated that the upset price has to be decided by a committee constituted under G.O.Ms.No.494, dated 25.11.1998 and as and when the upset price is decided, the fish tanks will be offered on lease to the petitioner-Society.

In view of the averments in the counter-affidavit, this Court is of considered opinion that there is no serious dispute as such with regard to right of the petitioner-Society. Therefore, the petitioner-Society may again approach the first respondent by giving

a representation expressing their willingness to accept the lease of fish tanks for the year 2004-05 also. It is also open to the petitioner-Society to take permission of the Gram Panchayat and remove the existing fish. The Gram Panchayat shall immediately pass necessary orders permitting the petitioner-Society to remove the fish.

The Writ Petition, with the above observations, is dismissed.

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(V.V.S.RAO, J)

20th August 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Gram Panchayat, Nidumolu Village, Movva Mandalam, Krishna District, Rep. by its President.
2. The Divisional Panchayat Officer, Department of Panchayat Raj, Krishna District, at Machilipatnam.

3. The District Panchayat Officer, Department of Panchayat Raj, Krishna District, at Machilipatnam.

4. The Collector, Krishna District at Machilipatnam.

5. The Deputy Director of Fisheries, Krishna District at Machilipatnam.

6. Two CCs to G.P. for Panchayat Raj, High Court Buildings, Hyderabad (OUT).

7. Two CD copies.